

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, MARCH 17, 2015
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Andrea Koczur, Dan Langseth, Paul Krabbenhoft, William Davis, Tim Brendemuhl, Jenny Mongeau, Amos Baer, David Heng, Mike Hulett

Members Absent: none

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Benedikt Baer, Christel Baer, Allen Baer, Joe Baer, Zenas Baer

Chair Paul Krabbenhoft called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

On motion by Tom Jensen, seconded by Amos Baer, and unanimously carried, the Commission approved the agenda.

APPROVAL OF MINUTES

On motion by Andrea Koczur, seconded by Jenny Mongeau, and unanimously carried, the Commission approved the minutes from February 24, 2015 as written.

CITIZENS TO BE HEARD

There were none.

BAER POULTRY COMPANY - REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval of a Conditional Use Permit to expand an existing feedlot. The expansion will consist of a new confinement building to house 200,000 pullets (layer hens under 5 pounds). This equates to 2,000 animal units (AU) by County definition and 600 AU by State criteria. The facility will be equipped with a state of the art Univent air dry cage system and a fully enclosed manure storage area and will be located adjacent to an already permitted poultry feedlot building. The site is located in the SW Quarter SW Quarter, Section 24, T139N, R44W (Egdon Twp), in the Agricultural General (AG) zoning district.

Amos Baer recused himself for the first public hearing due to a possible conflict of interest.

On motion by David Heng, seconded by Tom Jensen, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, displayed aerials of the site and the surrounding properties. He pointed out a church and the closest residential sites that are *not* associated with the Baer family. Another aerial view showed the existing buildings, the wetland, and the location for the new buildings. Attorney Zenas Baer, the applicant's representative, noted that since this diagram was drafted, they had decided to flip the two buildings around, and now the manure storage building will be to the north of the pullet barn, and the pullet barn will be placed where the manure storage building is shown. He noted that the Environmental Assessment Worksheet that has been completed for the site had the correct configuration. The County Highway Engineer is not going to require any updates to the roads.

Magnusson stated that a Conditional Use Permit is required by the County for any feedlot with over 500 AU. There are no platted subdivisions in the area and Erickson Lake is over 1,000 feet from the site, outside the shoreland area. Structures need to be over 50 feet from wetlands and these structures are 300 feet from the nearest wetland. This facility will utilize part of a 126-acre parcel of agricultural land for a 460' x 59' pullet barn. A 200' x 40' dry manure storage building will also be constructed adjacent to the new barn. Both structures will meet all applicable setbacks from the County Land Development Ordinance. The dry manure will partially break down due to the composting process and will be removed and applied to agricultural fields once or twice a year. It is easier to haul than liquid manure and this composting method is the best way of handling manure that Magnusson has seen. Since the manure is 80% dry there are no offensive odors, and the development of fly infestations is greatly minimized. The fact that all manure handling will be on concrete floors and under a roof greatly reduces the potential for any adverse damage to groundwater resources.

The facility met the threshold for a mandatory Environmental Assessment Worksheet (EAW), which was submitted to Minnesota Pollution Control Agency (MPCA) for review and public comment. The EAW included an air monitoring plan. Two comments were received during the public comment period. One comment was from an individual who addressed factory feedlots in general, but had nothing particular to say about this site. The second comment was from the Historical Society and stated that they did not find anything of historical value at the site. No additional environmental studies are needed and a negative declaration has been submitted on the EAW.

Zenas Baer commented that the facility will be designed and engineered with state of the art equipment, will have a minimal environmental footprint, and the manure is now a commodity rather than a waste product. He urged the County Planning Commission to issue the permit. When manure is composted it can be safely trucked for hundreds of miles if needed. Farmers apply the nutrient-rich product onto fields based on soil tests. Baer stated that the project also met the threshold for a National Pollution Discharge Elimination System (NPDES) permit, which was issued after an in-depth evaluation by MPCA, and has been forwarded to Mr. Magnusson. Air quality testing was done at the boundary of the property itself, and no incidences exceeded the expected standards. Baer Poultry Co. will have a total of 1.6 million birds, which he considers a small family farm for egg production, compared to much, much larger poultry facilities in the country. Baer added that he will bring a sample bag of dry manure the next time he comes to the Planning Commission.

Chair Krabbenhoft asked if there was anyone present who wished to speak for or against the request.

On motion by Dan Langseth, seconded by Bill Davis, and unanimously carried, the Planning Commission closed the public hearing.

The Planning Chair read the Findings of Fact for Conditional Use Permits and the Planning Commission did not feel that any items needed to be addressed further.

On motion by David Heng, seconded by Mark Klevgaard, and unanimously carried, the Planning Commission approved the request from Baer Poultry Co. for a Conditional Use Permit for expansion of an existing feedlot consisting of a new confinement building to house 200,000 pullets (2,000 animal units by county definition) equipped with a Univent air dry cage system and fully enclosed manure storage area, to be located in the SW¹/₄ SW¹/₄ Section 24, Eglon Twp with the following conditions:

- 1) Compliance with all appropriate provisions of the Clay County Land Development Ordinance.**
- 2) Receipt of appropriate State/Federal feedlot permit/certificate/registration and stormwater management permit from MPCA.**
- 3) Review of the site by SWCD for any possible wetland issues. Copy of SWCD report to be filed with Planning Office.**

SUMMIT SAND AND GRAVEL – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an Interim Use Permit to allow the establishment and operation of a gravel mine. The mine would be approximately 20 acres in area and located in the SW¹/₄ NE¹/₄ Section 27, T138N, R46W (Elkton Twp). Access to the site would be off State Highway 9. The site is located in the Agricultural General (AG) and Resource Protection Aggregate (RP-Agg) zoning districts.

On motion by Jenny Mongeau, seconded by Amos Baer, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, stated that this site is one mile south of the intersection of Hwy 9 and Hwy 10 in Downer. The site is approximately 20 acres in size. The low spots on the site have filled with water. A portion of this quarter section is in a long-term rim easement. Jim Utecht from Minnesota Department of Transportation (MnDOT) was contacted, and is requiring that the field access into the site is improved and updated to a commercial access for semi-truck traffic. He did not require a turn lane for the site. There is good site distance to the north and the south. Signage will be needed on the highway for truck traffic. This site was mined in the past and the applicant intends to complete the mining and will then reclaim it back to pasture. It is estimated that they may be mining there for five to seven years. Mining would be conducted using a dozer to remove topsoil/overburden and a front-end loader to remove material. If oversized material is found a screen may be used to separate materials. Access is on a paved highway, but dust control will be needed on the private access road to the site to prevent dust from blowing across the highway.

The applicant's variance request was heard and approved by the Board of Adjustment earlier this evening for mining right up to the south property line rather than maintaining the required 100-foot setback. Operations at the site would run from March through December, Monday thru Saturday, for 12 to 14 hours per day. They would also like to be allowed to operate 24 hour a day when necessary. Magnusson noted that if operations go 24 hours a day, lighting would be needed

and noise should be minimized as much as possible. Magnusson pointed out the three closest residences that could be impacted by the operation. All landowners within a half mile of the site were notified of the public hearing by mail. The applicant did not indicate how deep they expect to mine. The water is relatively shallow in some areas of the site. In the past, for any 24 hour operations, the Planning office has asked to be informed ahead of time. The applicant will reclaim the areas where new mining has taken place, and if they do any more mining in the old mine area they will reclaim that as well. There may not be enough top soil on site to cover the old mining area, but they would grade it down.

The applicant, David Sogn, Summit Sand and Gravel, stated that he is here with Jeff Rehder, owner of the company. They both formerly worked for Aggregate Industries and have been in the industry for a long time. He noted that they would probably stockpile the topsoil in the area of the old mining pit. They expect to mine a maximum of 10 acres and be done within seven years. There is only fill sand at the site so they do not plan to bring in a crusher. Situations may arise where they need to run 24 hours a day and would like that option. They want to be a good neighbor and would use soft alarms at night and make sure lights are not shining into any homes. They also have a dust control business that they will utilize for dust control.

Chair Krabbenhoft asked if there was anyone present who wished to speak for or against the request.

On motion by Amos Baer, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission closed the public hearing.

The Planning Chair read the Findings of Fact for Interim Use Permits and the Planning Commission did not feel that any items needed to be addressed further.

Discussion pursued addressing 24-hour a day operations. Magnusson confirmed that typical hours would be between 6:00 a.m. and 9:00 p.m. The applicant noted that 15 hours should work for the most part; however, they do want as much leeway as possible at the site. Magnusson stated that he has a letter that was signed by the landowner (Halverson) and the nearest neighbor (Manston) regarding the zero foot setback. If there is a high demand for material and they need extended hours, they would need to call into the Planning Office.

On motion by Mark Klevgaard, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission approved the request from Summit Sand & Gravel for an Interim Use Permit to allow the establishment and operation of a gravel mine of approximately 10 acres in area, located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 27 Elkton Twp with the following conditions:

- 1. Permit shall terminate on December 31, 2022.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.**
- 4. Operator shall provide documentation of access approval from MNDOT to Planning Office.**
- 5. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with**

any and all local/state/federal regulating agencies prior to commencing mining operations.

- 6. Operations must comply with all provisions of Wetlands Conservation Act.**
- 7. Propose a maximum of 20 acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc.) If additional acres are proposed to be opened in the future a new or amended IUP would be required.**
- 8. Operations allowed from March thru December, Monday thru Saturday, from 6 a.m. to 9 p.m. If the need arises to operate 24 hours a day, operator must contact the Planning Director in advance with details of the anticipated time-frame for the extended mining to obtain approval. Said approval will be reviewed at the next Planning Commission meeting.**
- 9. Require applicant to reclaim mined out areas as mining activities progress. Require areas to be seeded to native prairie grasses or landowners' specification upon reclamation.**
- 10. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 11. Require operator to present a mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**

SUMMIT SAND AND GRAVEL – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an Interim Use Permit to allow the establishment and operation of a gravel mine. The mine would be approximately thirty (30) acres in area and located in the S½ NW¼ and SW¼NE ¼ Section 25, T138N, R45W (Skree Twp). Access to the site would be off County Road 31. The site is located in the Agricultural General (AG) zoning district.

On motion by Andrea Koczur, seconded by Amos Baer, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, pointed out the location for this proposed mining site on aerial photos. The County Highway Engineer informed Magnusson that there would probably need to be some improvements. The access is currently just a field access road and would need upgrading to the County Engineer's specifications. Two separate mining sites on the same parcel were marked in red and total approximately 30 acres. The operator may crush and screen if they find larger material. The nearest residential site is a quarter mile away, and there are a couple more residences further away. The area is currently agricultural in use and will be reclaimed back to agricultural use upon completion of mining. It is estimated that material on the site may last for seven to 10 years. A front-end loader will be used to load material out, and the haul route will be west along the north edge of the Swenson property to Co. Road 31, and then to I94. There are no residences along this gravel haul road so dust issues should be minimal. Signage on the county road is needed to warn drivers of increased truck traffic/trucks hauling. This site appears to meet all the mining standards from the Development Code.

The applicant has applied and received a variance to mine as close as zero feet to the eastern property line that is adjacent to another potential mining site. Magnusson noted that this is one of the few properties that will be mined that is *not* zoned as Resource Protection – Aggregate. The applicant will need to maintain 100-foot setback from the east property line until he gets a permit to mine that parcel as well. Operations at this site are requested to run from March through December, Monday thru Saturday, for 12 to 14 hour per day. The applicant also requested that the facility be allowed to operate 24 hour a day when necessary.

The applicant, David Sogn, Summit Sand and Gravel, stated that a crusher would be used if they find rock at this site. He confirmed that 7 years should be fine. If they are not done mining by then, they could always come back for a new permit. The material will be hauled north to Hwy 10, west to Downer, and then to I94. If they mine the adjacent property, they will use the same haul road for that site. Sogn noted that a large hill on the east side should help to shield noise from the site, and there is no one close on the west side. He added that he is familiar with working with Dave Overbo, County Highway Engineer.

Chair Krabbenhoft asked if there was anyone present who wished to speak for or against the request.

On motion by Tim Brendemuhl, seconded by Mike Hulett, and unanimously carried, the Planning Commission closed the public hearing.

The Planning Chair read the Findings of Fact for Interim Use Permits and the Planning Commission did not feel that any items needed to be addressed further.

On motion by Andrea Koczur, seconded by Mike Hulett, and unanimously carried, the Planning Commission approved the request from Summit Sand & Gravel to allow the establishment and operation of a gravel mine approximately 30 acres in area and located in the S½NW¼ and SW¼NE ¼ Section 25, Skree Twp with the following conditions:

- 1. Permit shall terminate on December 31, 2022.**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.**
- 4. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.**
- 5. Operations must comply with all provisions of Wetlands Conservation Act.**
- 6. Propose a maximum of 30 acres be approved for mining operations (excavation, screening, crushing, stockpiling, etc.) If additional acres are proposed to be opened in the future a new or amended IUP would be required.**
- 7. May operate March thru December, Monday thru Saturday, from 6 AM to 9 PM. If the need arises to operate 24 hours a day, operator must contact the Planning Director in advance with details of the anticipated time-frame for the extended mining to obtain approval. Said approval will be reviewed at the next Planning Commission meeting.**
- 8. Require applicant to reclaim mined out areas as mining activities progress. Require**

areas to be seeded to native prairie grasses or landowners specification upon reclamation.

- 9. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 10. Require operator to present a mine plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**

Unfinished Business

Jenny Samarzja stated that the County Commissioners discussed the Planning Commissioners' concern about having four commissioners as alternates for Jenny Mongeau on the Planning Commission. They did not go to a single alternate, but had stated that their only intent with the alternates is to be better informed and keep up with the happenings of the County.

On motion by Mark Klevgaard, and seconded by Tom Jensen, the meeting was adjourned at 8:20 p.m.

Andrea Koczur, Planning Commission Secretary